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July 27, 2016

**Via Electronic Filing**

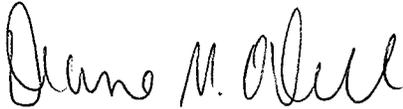
Rosemary Chiavetta, Secretary  
PA Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

Re: Commonwealth of Pennsylvania, et al., v. Blue Pilot Energy, LLC  
Docket No. C-2014-2427655

Dear Secretary Chiavetta:

On behalf of the Retail Energy Supply Association ("RESA") enclosed for electronic filing with regard to the above-referenced matter are the following documents: (1) Petition to Intervene or, in the Alternative, Motion for Leave To Accept Exception, (2) Notice to Plead; and, (3) Exception. Copies to be served in accordance with the attached Certificate of Service.

Sincerely,



Deanne M. O'Dell

DMO/lww  
Enclosure

cc: Hon. Elizabeth Barnes w/enc.  
Hon. Joel Cheskis w/enc.  
Office of Special Assistants w/enc. via email only ([ra-OSA@pa.gov](mailto:ra-OSA@pa.gov))  
Certificate of Service w/enc.

**CERTIFICATE OF SERVICE**

I hereby certify that this day I served a copy of RESA's ) Petition to Intervene or, in the Alternative, Motion for Leave To Accept Exception, (2) Notice to Plead; and, (3) Exception upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code Section 1.54.

**Via Email and/or First Class Mail**

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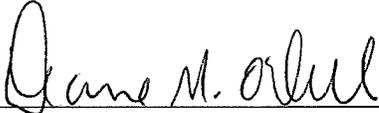
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Dated: July 27, 2016

  
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Deanne M. O'Dell, Esq.



**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Commonwealth of Pennsylvania, *et al.* :  
 :  
 v. : Docket No. C-2014-2427655  
 :  
 Blue Pilot Energy, LLC :

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**THE RETAIL ENERGY SUPPLY ASSOCIATION’S  
PETITION TO INTERVENE OR, IN THE ALTERNATIVE,  
MOTION FOR LEAVE TO ACCEPT EXCEPTION**

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Pursuant to 52 Pa. Code §§ 5.71-5.75 and § 5.103, the Retail Energy Supply Association (“RESA”)<sup>1</sup> files this Petition To Intervene Or, In The Alternative, Motion For Leave To Accept Exception. RESA has not participated in this proceeding previously and requests that the Commission grant this Petition for the purpose of considering RESA’s Exception which is limited to urging the Commission to reject the recommendation of the Initial Decision (“I.D.”) to interpret the Telemarketer Registration Act (“TRA”)<sup>2</sup> and the Commission’s regulations to impose a new requirement on electric generation suppliers (“EGSs”) to acquire a customer’s signature on a contract before the customer’s enrollment with the EGS is deemed valid (i.e. a “wet signature”).<sup>3</sup> To be clear, RESA is not taking any position regarding the specific allegations against Blue Pilot Energy, LLC (“Blue Pilot”) involving its marketing practices and,

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<sup>1</sup> The comments expressed in this filing represent the position of the Retail Energy Supply Association (RESA) as an organization but may not represent the views of any particular member of the Association. Founded in 1990, RESA is a broad and diverse group of more than twenty retail energy suppliers dedicated to promoting efficient, sustainable and customer-oriented competitive retail energy markets. RESA members operate throughout the United States delivering value-added electricity and natural gas service at retail to residential, commercial and industrial energy customers. More information on RESA can be found at [www.resausa.org](http://www.resausa.org).

<sup>2</sup> 73 P.S. §§ 2241-2249.

<sup>3</sup> *Commonwealth of Pennsylvania, et al. v. Blue Pilot Energy, LLC*, Docket No. C-2014-2427655, Initial Decision dated July 7, 2016 at 107-112, 137 (COL # 30) (“I.D.”).

to the extent the Commission concludes that Blue Pilot violated the Commission's regulations, RESA supports appropriate enforcement action. However, included in the I.D. is a recommendation that the Commission conclude that a wet signature is required for all telemarketing contracts. RESA's Exception, if accepted by the Commission, is limited to urging the Commission to reject this one recommendation that would have a widespread negative impact on RESA members and consumers.

As explained further below and in its Exception, the Commission's regulations do not require EGSs to obtain a wet signature for telemarketing contracts and the TRA includes an express exception for EGSs regarding wet signature requirements. The I.D. is erroneous in interpreting the law otherwise. If this recommendation is adopted by the Commission, RESA members will be substantially impacted as the telemarketing sales channel for EGSs would no longer be viable. This is because EGSs would not be able to finalize enrollments until after the customer returns the contract with a wet signature. The response rate by customers to provide a wet signature on an agreement for which they have already contracted would be negligible. Another issue for EGSs would be the need to hold the price open until the contract is returned which may not be timely (if it is returned at all). If this process were required, consumers would also experience a lag in time between enrollment and actual price implementation (exactly the opposite of the intent of the Commission's accelerated switching initiatives). The practical result would likely be EGSs electing not to utilize telemarketing as a sales channel which would take away the opportunity for consumers to enroll in the competitive market in this manner.

As explained more fully below, until issuance of this I.D., RESA had no reason to anticipate that the Commission would be asked to make such a market-alternating decision which is patently inconsistent with the law and the practice in Pennsylvania. Moreover, many of

RESA's members engage in telemarketing and – unlike Blue Pilot – their EGS licenses are in good standing. Therefore, RESA has a vital interest in raising this particular issue to the Commission and reasonable concerns regarding whether or not Blue Pilot will file exceptions and the extent to which this issue will be addressed.

For all these reasons, RESA respectfully requests that the Commission grant this Petition, accept RESA's Exception and reject the recommendation of the I.D. to create a requirement that EGSs obtain a wet signature for all telemarketing contracts. In support of this Petition, RESA states as follows:

1. On June 20, 2014, the Commonwealth of Pennsylvania, by Attorney General Kathleen G. Kane, through the Bureau of Consumer Protection (OAG), and Tanya J. McCloskey, Acting Consumer Advocate (OCA) (collectively referred to as "Joint Complainants") filed with the Pennsylvania Public Utility Commission ("Commission") a formal Complaint against Blue Pilot Energy, LLC ("Blue Pilot" or "the Company"). On that same date, the Joint Complainants filed similar complaints against four other suppliers – IDT Energy, Inc., Respond Power, LLC, Hiko Energy, LLC and Energy Services Providers, Inc. d/b/a Pennsylvania Gas & Electric.<sup>4</sup> All of those complaints have since settled.<sup>5</sup> In their complaint against Blue Pilot, the Joint

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<sup>4</sup> *Commonwealth of Pennsylvania, et al. v. Hiko Energy, LLC*, Docket No. C-2014-2427652 (Joint Complaint filed June 20, 2014); *Commonwealth of Pennsylvania, et al. v. IDT Energy, Inc.*, Docket No. C-2014-2427657 (Joint Complaint filed June 20, 2014); *Commonwealth of Pennsylvania, et al. v. Respond Power, LLC*, Docket No. C-2014-2427659 (Joint Complaint filed June 20, 2014); *Commonwealth of Pennsylvania, et al. v. Energy Services Providers, Inc. d/b/a Pennsylvania Gas & Electric*, Docket No. C-2014-2427656 (Joint Complaint filed June 20, 2014).

<sup>5</sup> *Commonwealth of Pennsylvania, et al. v. Hiko Energy, LLC*, Docket No. C-2014-2427652 (Order entered December 3, 2015 approving Joint Petition for Approval of Settlement); *Commonwealth of Pennsylvania, et al. v. IDT Energy, Inc.*, Docket No. C-2014-2427657 (Tentative Opinion and Order entered June 30, 2016 approving a Joint Petition for Approval of Settlement); *Commonwealth of Pennsylvania, et al. v. Respond Power, LLC*; Docket Nos. C-2014-2427659 & C-2014-2438640 (Initial Decision entered May 17, 2016 recommending adoption of Joint Petition for Approval of Settlement); *Commonwealth of Pennsylvania, et al. v. Energy Services Providers, Inc. d/b/a Pennsylvania Gas & Electric*, Docket No. C-2014-2427656 (Tentative Opinion and Order entered March 9, 2016 approving a Joint Petition for Approval of Settlement).

Complainants averred that they had received numerous complaints from consumers related to variable rates charged by Blue Pilot, including eleven formal complaints filed by consumers at the Commission.<sup>6</sup> The Joint Complainants also averred that Blue Pilot used a variety of marketing and advertising mediums to solicit residential customers for its variable rate plan. The Joint Complainants asserted that the Pennsylvania’s Telemarketer Registration Act (“TRA”) requires Blue Pilot to reduce any sale of goods or services made during a telemarketing call to a written contract and obtain the consumer’s signature.<sup>7</sup> The Joint Complainants made several requests for relief, including that the Commission find that Blue Pilot violated the TRA.<sup>8</sup>

2. On July 7, 2016, Administrative Law Judges Joel H. Cheskis and Elizabeth H. Barnes issued an Initial Decision (“I.D.”) in this matter recommending that the Commission find that the TRA requires electric generation suppliers (“EGSs”) to acquire a wet signature for customers enrolled through telemarketing.<sup>9</sup>

3. With issuance of this I.D., the importance of this case increased significantly because adoption of the I.D. by the Commission threatens to shut down the telemarketing sales channel which will negatively impact the competitive options available to consumers in Pennsylvania. Even if a supplier still elected to engage in telemarketing, the wet signature requirement would result in customers experiencing an unnecessary lag in time between enrollment and actual price implementation – the exact opposite of the intent of the Commission’s accelerated switching initiatives. For the reasons set forth more fully in its Exception, there is no sound legal foundation upon which to conclude that wet signatures must

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<sup>6</sup> *Commonwealth of Pennsylvania, et al. v. Blue Pilot*, Docket No. C-2014-2427655, Joint Complaint at ¶¶ 14-18 (June 20, 2014).

<sup>7</sup> *Id.* at ¶ 52.

<sup>8</sup> *Id.* at 13.

<sup>9</sup> I.D. at 107-112.

be acquired for telemarketing contacts. Further, adopting the I.D. would render meaningless the Commission's regulations addressing the contracting process for suppliers.<sup>10</sup> Adopting this recommendation of the I.D. would upset industry practice in Pennsylvania and negatively impact any EGS in the Commonwealth engaging in telemarketing.

4. RESA's participation in this proceeding at the exceptions stage is vital. Importantly, Blue Pilot has announced that it has surrendered its license as of May 4, 2015, has no plans in the foreseeable future to operate as an EGS in Pennsylvania, and has had its license suspended pending final resolution of this proceeding.<sup>11</sup> In addition, the I.D. recommends that the Commission direct permanent revocation of Blue Pilot's EGS license.<sup>12</sup> Consequently, there is a concern that – given the amount of issues involved in this case and the fact that Blue Pilot is no longer a Pennsylvania licensed EGS – Blue Pilot may not elect to focus on the potential future impact of adopting the recommendation of the I.D. on this issue. These extraordinary circumstances warrant RESA's involvement in the matter.

5. As a result, RESA is simultaneously filing an Exception in this proceeding limited to the I.D.'s recommendation that a wet signature be required for all telemarketing contracts. In support of the Exception, RESA respectfully requests that the Commission grant this Petition to Intervene. If, however, the Commission elects to deny this Petition to Intervene, then RESA requests that its Exception be accepted as a non-party.

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<sup>10</sup> These regulations include: 52 Pa. Code §§ 111.1-111.14 (Marketing and Sales Practices for the Retail Residential Energy Market); 52 Pa. Code §§ 54.1-54.10 (Customer Information); and, 52 Pa. Code §§ 57.176-5.180 (Standards for Changing a Customer's Electricity Generation Supplier).

<sup>11</sup> I.D. at 113-119; *Electric Generation Supplier License Cancellations of Companies with an Expired Financial Security*, Docket No. M-2015-2490383, Final Order entered March 14, 2016 at 3.

<sup>12</sup> I.D. at 118.

**I. PETITION TO INTERVENE**

6. RESA is a trade association of retail energy suppliers who share the common vision that competitive retail electricity markets deliver a more efficient, customer-oriented outcome than does the monopoly-protected, rate-regulated utility structure. RESA members are licensed to sell electric energy in the markets of Pennsylvania's major EDCs.

7. RESA's attorneys in this matter are:

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8. The Commission's regulations allow intervention where a person has an interest in the proceeding which may be directly affected and which is not adequately represented by existing parties, and as to which the person may be bound by the action of the Commission in the proceeding.<sup>13</sup> Intervention is also permitted where participation of the person may be in the public interest.<sup>14</sup> A "person" includes a corporation and an association.<sup>15</sup>

9. The Commission's regulations also provide that "[e]xcept with regard to statutory advocates...intervention will not be permitted once an evidentiary hearing has concluded absent extraordinary circumstances."<sup>16</sup> While the Commission has denied a petition to intervene filed after an initial decision was entered, the Commission specifically stated it does "not rule out the

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<sup>13</sup> 52 Pa. Code § 5.72(a)(2).

<sup>14</sup> 52 Pa. Code § 5.72(a)(3).

<sup>15</sup> 52 Pa. Code § 1.8.

<sup>16</sup> 52 Pa. Code § 5.74(c).

possibility that, in an appropriate future case, a petitioner might demonstrate extraordinary circumstances warranting intervention after the issuance of an Initial Decision.”<sup>17</sup> In fact, the Commission has previously granted a petition to intervene filed at the exceptions stage of a proceeding<sup>18</sup> and has considered exceptions filed by a non-party.<sup>19</sup> RESA believes, as explained herein, that extraordinary circumstances warrant its intervention and respectfully requests that the Commission grant its intervention.

10. RESA’s members will be bound by the action of the Commission in this proceeding, which will adjudicate whether the TRA and/or the Commission’s regulations require EGSs to acquire a wet signature for customers enrolled through telemarketing. Adjudications typically determine past and present rights and liabilities of parties.<sup>20</sup> But, this adjudication will have broader ramifications.<sup>21</sup> It will result in an interpretation of the verification requirements which will establish a standard of conduct to be followed by all EGSs.

11. The Commission’s adoption of the I.D.’s recommendation to require wet signatures on telemarketing contracts would substantially impact the ability of EGSs to provide competitive generation service to retail customers. The Commission has already recognized that EGSs face “any number of challenges” in the current market to providing competitive service

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<sup>17</sup> *Verizon Pennsylvania Inc., et al. v. Penn Telecom, Inc.*, Docket No. C-20066987, Order entered August 29, 2008 at 4.

<sup>18</sup> *Investigation into Demand Side Management by Electric Utilities Uniform Cost Recovery Mechanism*, Docket No. I-900005 Corrected Opinion and Order entered December 13, 1993 at 3.

<sup>19</sup> *Application of Sprint Communications Company*, Docket No. A-310183F0002AMA, et. al, Opinion and Order entered December 1, 2006 (“*Sprint Application Order*”).

<sup>20</sup> 45 Pa.C.S. § 101 (definition of adjudication).

<sup>21</sup> See Terrance J. Fitzpatrick, *THE CHOICE BETWEEN ADJUDICATION AND RULEMAKING FOR DEVELOPING ADMINISTRATIVE POLICY IN PENNSYLVANIA*, 4 WIDENER J. PUB. L. 373, 382 (1995).

and has taken many steps to address some of these issues.<sup>22</sup> Currently, many EGSs utilize telemarketing as a sales channel to offer service to customers and imposing the never-before-required burdensome obligation to obtain wet signatures will likely result in EGSs electing not to use this sales channel. This is because EGSs would not be able to finalize enrollments until after the customer returns the contract with a wet signature. The response rate by customers to provide a wet signature on an agreement for which they have already contracted would be negligible. Another issue for EGSs would be the need to hold the price open until the contract is returned which may not be timely (if it is returned at all). Even if telemarketing were still available to customers with the imposition of the wet signature requirement, consumers would experience an unnecessarily lag in time between enrollment and actual price implementation (exactly the opposite of the intent of the Commission's accelerated switching initiatives).

12. RESA's interests in this proceeding are unique from and not adequately represented by other parties that may seek to intervene, including individual EGSs or other organizations interested in electric competition in Pennsylvania in general. This is because RESA represents the interests of a diverse and broad group of electric generation suppliers in general and not the interests of any individual member. Moreover, as noted previously, the fact that Blue Pilot's EGS license has been suspended and it has stated that it has no plans in the foreseeable future to operate as an EGS raises concerns about whether it can adequately represent the interest of RESA members who are currently operating in Pennsylvania and engaging in telemarketing calls. The unusual circumstances present here warrant RESA's involvement at this stage of the proceeding.

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<sup>22</sup> *Investigation of Pennsylvania's Retail Electricity Market: End State of Default Service*, Docket No. I-2011-2237952, Final Order entered February 15, 2013 at 12; *See, e.g., EDC Customer Account Number Access Mechanism for EGSs*, Docket No. M-2013-2355751, Final Order entered July 17, 2013.

13. RESA's intervention is in the public interest. RESA's perspective on the impact of adopting the I.D.'s recommendation to require wet signatures on telemarketing contracts is valuable information for the Commission and will enable the Commission to have a broader view of this matter to ensure that its final decision serves the public interest. This is because imposing a new wet signature requirement on telemarketing will make this sales channel no longer viable. Removing this sales channel will negatively impact the ability of customers to have access to a variety of avenues to enter the competitive market. Even if some EGSs still elect to utilize telemarketing, a wet signature requirement will unnecessarily delay customer enrollment due to the time between completing the call and receiving the returned, signed contract. RESA has been substantially involved in the Commission's development of accelerated switching processes and understands the impact a wet signature requirement will have on that process. The unique perspectives and insights of a trade association representing multiple EGSs will assist in a complete presentation of how adopting the recommendation of the I.D. to require wet signatures on telemarketing contracts will impact the public interest.

14. Granting RESA's Petition to Intervene and considering its Exception will not delay the orderly progress of the case or broaden the issues because it is limited to addressing one issue regarding the requirements for telemarketing contracts. RESA is not taking any position regarding the specific allegations against Blue Pilot involving its marketing practices and, to the extent the Commission concludes that Blue Pilot violated the Commission's regulations, RESA supports appropriate enforcement action.

15. RESA meets the standards for intervention set forth in 52 Pa. Code § 5.72(a). As an organization whose members include competitive EGSs licensed to do business in the Commonwealth who engage in telemarketing, RESA has interests that will be directly affected

by this proceeding. The recommendation of the I.D. that the Commission conclude wet signatures are required on telemarketing contracts presents technical and practical issues that directly impact RESA and its members.

16. RESA also satisfies the extraordinary circumstances standard of 52 Pa. Code § 5.74(c) to support approval of its intervention after an evidentiary hearing has concluded because RESA had reasonable reasons for not intervening in this proceeding prior to the issuance of the I.D.

17. First, as explained further in its Exception, the recommendation of the I.D. is not consistent with the law and RESA had no reason to anticipate that such an erroneous legal interpretation would be presented to the Commission. The TRA establishes that a wet signature is not required “if the sale of good or service is regulated under other laws of the Commonwealth.”<sup>23</sup> The contracting process for enrolling customers with an EGS is regulated by the Commission<sup>24</sup> and the Commission’s regulations specifically do not include a requirement for wet signatures for telemarketing calls.<sup>25</sup> Importantly, after significant input and debate and an appropriate due process rulemaking proceeding, the Commission established a transaction verification process for all sales made by EGSs and did not require a wet signature for telemarketing calls.<sup>26</sup> As the Commission itself observed, “the transaction verification

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<sup>23</sup> 73 P.S. § 2245(d)(1).

<sup>24</sup> 66 Pa. C.S. § 2807(d).

<sup>25</sup> 52 Pa. Code § 111.1, et seq.

<sup>26</sup> Commission staff (through the Committee Handling Activities for Retail Growth in Electricity or “CHARGE”) began addressing the issue of marketing and sales activities in January 2010. This process involved approximately ten meetings with staff and interested stakeholders which focused on discussing and review various drafts of interim guidelines drafted by staff. The interim guidelines were formally introduced in July 2010 through a Tentative Order with a comment period following. After a review of the comments filed, the Commission issued a final order on the Interim Guidelines on November 5, 2010. On February 10, 2011 the Commission issued a proposed rulemaking order to incorporate the interim guidelines into its regulations. After the receipt of comments and reply comments to the proposed

process...has been extensively discussed and debated.”<sup>27</sup> There would have been no impetus for the Commission to establish a transaction verification process if it believed that the TRA requires a wet signature for customers who enroll with an EGS via telemarketing. Significantly, the Commission did not include a discussion on wet signatures as a requirement for telemarketing sales in any of its orders evaluating the rules for marketing and sales practices of EGSs.<sup>28</sup> A diversion from industry practice and Commission interpretations on this matter would directly impact the ability of EGSs – including (but not limited to) RESA’s members – to provide competitive offerings. Until issuance of the I.D., however, there was no reasonable reason to expect that such a recommendation would be before the Commission in this proceeding.

18. A second reasonable reason for RESA to not intervene in this proceeding prior to the issuance of the I.D. is because this matter involves an enforcement against an EGS. While RESA supports appropriate enforcement action if a supplier is found to have violated the Commission’s regulations or the law, intervention in any particular supplier’s enforcement action would not be an efficient use of resources.

19. A third reasonable reason for RESA to not have intervened in this proceeding prior to the issuance of the I.D. is because the other complaint cases which raised this issue were settled prior to this stage and none of those settlements included a requirement that the

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rulemaking order, the Commission issued its final rulemaking order on October 24, 2012. The Commission also issued a reconsideration order of its final rulemaking order on April 4, 2013.

<sup>27</sup> *Rulemaking Re: Marketing and Sales Practices for the Retail Residential Energy Market*, Docket No. L-2010-2208332, Corrected Final Rulemaking Order entered October 24, 2012 at 33.

<sup>28</sup> *Rulemaking Re: Marketing and Sales Practices for the Retail Residential Energy Market*, Docket No. L-2010-2208332, Reconsideration Order entered April 4, 2013; *Rulemaking Re: Marketing and Sales Practices for the Retail Residential Energy Market*, Docket No. L-2010-2208332. Opinion and Order entered November 19, 2012; *Rulemaking Re: Marketing and Sales Practices for the Retail Residential Energy Market*, Docket No. L-2010-2208332, Corrected Final Rulemaking Order entered October 24, 2012; *Rulemaking Re: Marketing and Sales Practices for the Retail Residential Energy Market*, Docket No. L-2010-2208332, Proposed Rulemaking Order entered February 14, 2011.

Commission interpret the wet signature requirements consistent with the recommendation of the I.D. in this case.

20. For all these reasons, earlier involvement in this matter did not seem appropriate, necessary or cost effective. This intervention is necessitated because of the recommendation of the I.D. As such, RESA meets the standards of 52 Pa. Code § 5.74(c) to be granted intervention at this stage due to the extraordinary circumstances present here.

## II. MOTION FOR LEAVE TO ACCEPT EXCEPTION

21. If the Commission denies RESA's Petition to Intervene, RESA respectfully request that the Commission accept its Exception pursuant to 52 Pa. Code § 5.103.

22. The Commission has previously considered the exceptions filed by a non-party after issuance of the initial decision. In a case involving the application of Sprint Communications Company L.P. ("Sprint") for authority to expand its Competitive Local Exchange Carrier ("CLEC") certification, the only parties to the underlying litigation were Sprint and Commonwealth Telephone Company ("CTCo").<sup>29</sup> However, after the initial decision was issued, the Broadband Cable Association of Pennsylvania ("BCAP") filed a Petition to Intervene and Exceptions.<sup>30</sup> Although CTCo filed an Answer in Opposition requesting the Commission to deny BCAP's Petition to Intervene,<sup>31</sup> the Commission did not formally dispose of BCAP's Petition to Intervene so BCAP was never granted official party status in the proceeding.<sup>32</sup> Despite this, the Commission extensively considered BCAP's exceptions in resolving the

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<sup>29</sup> *Sprint Application Order* at 2.

<sup>30</sup> Petition to Intervene of the Broadband Cable Association of Pennsylvania and Exceptions of the Broadband Cable Association of Pennsylvania, Docket No. A-310183F0002AMA filed June 14, 2008.

<sup>31</sup> Answer in Opposition to the Petition to Intervene of the Broadband Cable Association of Pennsylvania, Docket No. A-310183F0002AMA filed June 28, 2006.

<sup>32</sup> 52 Pa. Code § 5.71(a)(1) requires an order of the presiding officer or the Commission to grant a petition to intervene before an interested person can participate in a proceeding as an intervenor.

matter.<sup>33</sup> Thus, the *Sprint Application Order* case stands for the proposition that the Commission may consider the exceptions of a non-party.

23. As further evidence that non-parties may participate in proceedings, the Commission's regulations permit the filing of amicus briefs.<sup>34</sup> Thus, the Commission appears to recognize that there are instances in which the input of a non-party to a proceeding may provide valuable input to the Commission. While RESA recognizes that these amicus rules apply during the briefing stage, as noted above (see paragraphs 16,18, and 19), until the I.D. was issued RESA had no reasonable reason to anticipate the need to participate in this proceeding prior to now. Thus, given the circumstances here as well as the recognition of the Commission that non-parties can provide valuable insight, RESA urges the Commission to accept and fully consider its Exception.

24. Accepting RESA's Exception will not prejudice the parties in this proceeding because the exceptions are being submitted in accordance with the procedural schedule set by the Presiding Officers and the parties will have an opportunity to file a reply to RESA's Exception.

25. Thus, for all these reasons, if the Commission declines to grant RESA's Petition to Intervene, then RESA requests that the Commission grant its alternative request for leave to accept Exception.

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<sup>33</sup> *Sprint Application Order* at 13-16; 26-28; 31-32

<sup>34</sup> 52 Pa. Code § 5.502(e). The applicability of the Commission's amicus rule regarding the *Sprint Application Order* was not clear at the time BCAP filed its Petition to Intervene and Exceptions because the proceeding began in May 2005 which was almost a year prior to the Commission's adoption of the new rule in April 2006.

**WHEREFORE**, for all these reasons, RESA respectfully requests that the Commission grant this Petition, accept RESA's Exception and reject the recommendation of the I.D. to create a requirement that EGSs obtain a wet signature for all telemarketing contracts

Respectfully submitted,



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Date: July 27, 2016

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